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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/757,755	01/15/2004	Anthony John White	7422	4285				
7590 Gauthier & Connors LLP Suite 3300 225 Franklin Street Boston, MA 02110		05/03/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">PATEL, TAJASH D</td></tr></table>		EXAMINER		PATEL, TAJASH D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/757,755

**Applicant(s)**

WHITE, ANTHONY JOHN

**Examiner**

Tejash D. Patel

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/15/04 (Pre-Amdt).
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/11/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This office action is being made new-non final over the action mailed on 8/8/06 in view of the preliminary amendment that was filed on January 15, 2004.

#### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Blaker et al. (US 921,352). Blaker et al. (hereinafter Blaker) discloses an appliance for protecting against impact and strain injury including a plurality of mutually overlapping and interconnected plates (6) of an impact resistant material being attached permanently to an article/vest (1) worn about the body such as to permit limited relative movement between the plates, page 1, col. 2, lines 67-68 and as shown in figures 2-4. Further, the plates are aligned along a common stitched flexible backing member (7) defined as a pair of ligaments that extends centrally along the appliance and it is inherent that the plurality of plates are generally moveable therealong, page 1, col. 2, lines 2-6 and as shown in figure 3-5. Furthermore, means (10,11) are provided for removably mounting the appliance about the body when the vest is worn. Also, the interconnected plates attached to the backing member in a fixed relative disposition thereto by fastener (8) are in mutually overlapping relationship as shown in figure 4.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker in view of White (US 6,305,031).

With regard to claim 16, it would have been obvious to one skilled in the art that the appliance of Blaker when viewed with White can be applied to any article of clothing as required for a particular application thereof.

6. Claims 7, 8, 12-15, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker in view of Lewis (US 5,060,314). Blaker discloses the invention as set forth above except for showing the backing member being removable with hook and loop material.

Lewis discloses a ballistic resistant garment having overlapping plates (50,54) being secured by an elastic backing member (50c, 50d) having hook and loop material thereto, col. 4, lines 55-64.

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It would have been obvious to one skilled in the art at the time the invention was made to provide the backing member of Blaker with hook and loop material as taught by Lewis so that worn or damaged plates can be easily removed while making the device cost effective.

7. Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker.

With regard to claim 11, it would have been obvious that the backing member of Blaker can be attached by snaps, buckles, eyelets, etc since such fastening means is considered equivalent in the art. Further, with regard to claim 7, it would have been obvious that the interconnected plates of Blaker can be made of any desired material that was available at the time the device was made or depending on the end use thereof.

#### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993.

The fax number for the group is (571) 273-8300.

April 18, 2007



**TEJASH PATEL**  
**PRIMARY EXAMINER**